

## **EXHIBIT 3**

**"Current Office Action for U.S. Application  
No. 10/959,700"**



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/959,700	10/05/2004	Masakazu Suzuoki	SCEI 3.0-070	3203
530	7590	06/01/2007	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			CHANG, ERIC	
			ART UNIT	PAPER NUMBER
			2116	
			MAIL DATE	DELIVERY MODE
			06/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/959,700	SUZUOKI ET AL.
	Examiner Eric Chang	Art Unit 2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 March 2007.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-7,9-14,16-23,25-30 and 32-34 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,3-7,9-14,16-23,25-30 and 32-34 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 1-16-07.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1, 3-7, 9-14, 16-23, 25-30 and 32-34 are pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-7, 9-14, 16-23, 25-30 and 32-34 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 7,096,145 to Orenstien et al.
4. As to claim 1, Orenstien discloses a method for performing power management, the method comprising the steps of: monitoring a rate of execution of instructions by a processor [col. 3, lines 32-37]; and estimating a power consumption rate as a function of the monitored instruction execution rate so that processing by the processor is controllable according to the power consumption rate [col. 3, lines 32-37]; wherein the rate of execution is monitored based on a rate of fetching instructions for execution, wherein the instructions include instructions having different types [col. 3, lines 44-57].

5. As to claim 3, Orenstien discloses the estimating step estimates a heat level for the processor as a function of instruction count values for each of the different types of instruction being executed [col. 2, lines 17-32].

6. As to claims 4-5, Orenstien discloses the different types of instructions include a floating point instruction [col. 3, lines 44-57]. Other instructions well known in the art comprise an integer instruction, a vector floating point instruction, a vector integer instruction, a scalar floating point instruction and a scalar integer instruction.

7. As to claim 6, Orenstien discloses the estimating estimates a heat level for the processor [col. 2, lines 17-32].

8. As to claim 7, Orenstien discloses a method for performing power management, the method comprising the steps of: determining power information based on a rate of execution of instructions by a first processor [col. 3, lines 32-37]; and estimating a rate of power consumption as a function of the determined power information so that processing by the processor is controllable according to the power consumption rate [col. 3, lines 32-37]; wherein the instructions are of different types, and the power information is determined by counting the number of each of the respective types of instructions being executed by the first processor [col. 3, lines 44-57].

9. As to claims 9-10, Orenstien discloses the different types of instructions include a floating point instruction [col. 3, lines 44-57]. Other instructions well known in the art comprise an integer instruction, a vector floating point instruction, a vector integer instruction, a scalar floating point instruction and a scalar integer instruction.

10. As to claim 11, Orenstien discloses sending the power information to a second processor [108], wherein the estimating is performed by the second processor.

11. As to claim 12, Orenstien discloses the second processor controls the first processor to reduce energy usage if the estimated energy usage is above a predefined level [col. 2, lines 32-40].

12. As to claim 13, Orenstien discloses the second processor puts the first processor into an idle state [col. 3, lines 1-3].

13. As to claim 14, Orenstien discloses apparatus performing power management, the apparatus comprising: a first processor [102]; and a monitoring circuit [108] operable to generate power information based on a rate of execution of instructions by the first processor [col. 3, lines 32-37]; wherein the rate of execution is represented by a rate of fetching instructions for execution, the instructions include instructions having different types and the power information includes counts of each of the different types of instructions being fetched for execution [col. 3, lines 44-57].

14. As to claims 16-17, Orenstien discloses the different types of instructions include a floating point instruction [col. 3, lines 44-57]. Other instructions well known in the art comprise an integer instruction, a vector floating point instruction, a vector integer instruction, a scalar floating point instruction and a scalar integer instruction.
15. As to claim 18, Orenstien discloses the monitoring circuit includes counters [118, 120, 122] for maintaining the counts of each of the different types of instructions.
16. As to claim 19, Orenstien discloses the first processor is operable to send the power information to a second processor [108], and the second processor is operable to estimate a rate of power consumption by the first processor [col. 3, lines 32-37].
17. As to claim 20, Orenstien discloses the second processor is operable to estimate a heat level corresponding to the estimated rate of power consumption [col. 2, lines 17-32].
18. As to claim 21, Orenstien discloses a processing element for performing power management, the processing element comprising: a first processing unit [108]; a number of attached processing units [col. 3, lines 32-37], at least one attached processing unit having a monitoring circuit [108] operable to accumulate power information related to a rate at which instructions are executed therein [col. 3, lines 32-37]; wherein the at least one attached processing unit is operable to send the accumulated power information to the first processing

unit, and the first processing unit is operable to determine a rate of power consumption from the accumulated power information [col. 3, lines 32-37]; wherein the instructions include instructions having different types, and wherein the accumulated power information includes data representing counts for how many instructions of the different types of instructions have been executed [col. 3, lines 44-57].

19. As to claim 22, Orenstien discloses the first processing unit is operable to reduce an energy usage of the at least one attached processing unit if the determined power consumption for that attached processing unit is above a predefined value [col. 2, lines 32-40].

20. As to claim 23, Orenstien discloses the first processing unit is operable to reduce an energy usage of that attached processing unit by causing that attached processing unit to enter an idle state [col. 3, lines 1-3].

21. As to claims 25-26, Orenstien discloses the different types of instructions include a floating point instruction [col. 3, lines 44-57]. Other instructions well known in the art comprise an integer instruction, a vector floating point instruction, a vector integer instruction, a scalar floating point instruction and a scalar integer instruction.

22. As to claim 27, Orenstien discloses the first processing unit is operable to estimate a heat level corresponding to the determined rate of power consumption [col. 2, lines 17-32].

Art Unit: 2116

23. As to claim 28, Orenstien discloses a processing environment comprising: a first processing unit [108]; a number of additional processing units [col. 3, lines 32-37] each having a monitoring circuit [118, 120, 122] operable to generate power information based on a rate at which instructions are executed by the respective additional processing unit [col. 3, lines 32-37]; wherein the additional processing units are operable to send power information to the first processing unit, the first processing unit being operable to monitor a rate of power consumption of the additional processing units based on the sent power information [col. 3, lines 32-37]; wherein the instructions include instructions having different types and the accumulated power information includes data representing counts of each of the different types of instructions that are executed [col. 3, lines 44-57].

24. As to claim 29, Orenstien discloses the first processing unit reduces the rate of power consumption of at least one of the attached processing units when the rate of power consumption is above a predefined value [col. 2, lines 32-40].

25. As to claim 30, Orenstien discloses the first processing unit reduces the power consumption of the at least one attached processing unit by causing that attached processing unit to enter an idle state [col. 3, lines 1-3].

26. As to claims 32-33, Orenstien discloses the different types of instructions include a floating point instruction [col. 3, lines 44-57]. Other instructions well known in the art comprise

an integer instruction, a vector floating point instruction, a vector integer instruction, a scalar floating point instruction and a scalar integer instruction.

27. As to claim 34, Orenstien discloses the first processing unit further estimates a heat level based on the monitored rate of power consumption [col. 2, lines 17-32].

*Response to Arguments*

28. Applicant's arguments with respect to claims 1, 3-7, 9-14, 16-23, 25-30 and 32-34 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2116

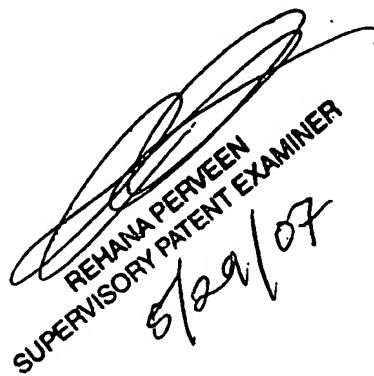
30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Chang whose telephone number is (571) 272-3671. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rehana Perveen can be reached on (571) 272-3676. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 16, 2007

ec

  
REHANA PERVEEN  
SUPERVISORY PATENT EXAMINER  
5/29/07



PTO/SB/08A/B (09-06)

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Substitute for form 1449/PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

				<b>Complete If Known</b>	
				Application Number	10/959,700-Conf. #3203
				Filing Date	October 5, 2004
				First Named Inventor	Masakazu Suzuki
				Art Unit	2116
				Examiner Name	T. C. Lee
Sheet	1	of	1	Attorney Docket Number	SCEI 3.0-070

**U.S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
/ECI	AA*	US-4,622,631	11-11-1986	Frank et al.	

**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>3</sup>
		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)				

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. \* CITE NO.: Those application(s) which are marked with an single asterisk (\*) next to the Cite No. are not supplied (under 37 CFR 1.98(a)(2)(ii)) because that application was filed after June 30, 2003 or is available in the IPFW. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

**NON PATENT LITERATURE DOCUMENTS**

Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature 724604	/Eric Chang/	Date Considered	05/29/2007
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<b>Notice of References Cited</b>		Application/Control No.	Applicant(s)/Patent Under Reexamination SUZUOKI ET AL.	
		Examiner Eric Chang	Art Unit 2116	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-7,096,145 B2	08-2006	Orenstien et al.	702/132
*	B	US-6,976,178 B1	12-2005	Kissell, Kevin D.	713/300
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
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	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
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	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.